

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

CIVIL MINUTES

Case No.: 3:19-cv-01701-MO

Date of Proceeding: April 20, 2021

Case Title: Peterson v. C R Bard Inc. et al.

Presiding Judge: Judge Michael W. Mosman

Courtroom Deputy: Dawn Stephens
Dawn_Stephens@ord.uscourts.gov
Telephone number (503) 326-8024

Reporter: Bonita Shumway

DOCKET ENTRY: RECORD OF THE PRETRIAL CONFERENCE.

PRE-TRIAL MOTIONS

Defendants' Motion in Limine [ECF 111] is GRANTED in part and DENIED in part. Motions 1, 3, 4, 6, and 7 are GRANTED. Motion 5 is DENIED. Motion 2 is GRANTED in part and DENIED in part. Motion 2 is GRANTED as to the Crisis Communication Plan and the two emails. Motion 2 is DENIED as to the sales communiques, with the qualification that references to deaths shall be redacted.

Plaintiff's Motion to Strike [ECF 115] is GRANTED in part, DENIED in part, and taken under advisement in part. Points 2, 3, and 5 are GRANTED as to testimony regarding violating the standard of care. Point 4 is DENIED in part, and the Court will instruct the jury as to the only appropriate use of the testimony. Points 6 and 7 are GRANTED as to testimony regarding violating the standard of care, and the Court will instruct the jury on the appropriate use of the evidence. Point 1 is taken under advisement. In light of these rulings, Dr. Morris may choose to emphasize admissible portions of his opinion and stay away from inadmissible portions, which may impact the nature of the limiting instruction given to the jury.

Plaintiff's Motion in Limine [ECF 120] is GRANTED in part and DENIED in part. Motions 1, 3, 4, 9, 12, and 15 are GRANTED. Motions 8, 10, 11, 13 (one), 13 (two), and 19 are DENIED. Motions 2, 5, 6, 7, 14, 16, 17, and 18 are GRANTED in part and DENIED in part, as stated on the record.

EXHIBITS

Plaintiff's Objections to Exhibits [ECF 106, 135] are GRANTED in part and DENIED in part. Plaintiff's objections that "articles are not exhibits" are GRANTED; that "hearsay/relevance/test conditions not substantially similar to human conditions and not representative of clinical reality" are DENIED; and for the reasons stated on the record, all other objections are DENIED with leave to renew at trial.

For the reasons stated on the record, Defendants' Objections to Exhibits [ECF 113] are DENIED with leave to renew at trial.

The parties are instructed to resubmit exhibit lists that reflect the Court's PTC rulings by 04/23/2021 at 10 a.m. Objections to the revised exhibit lists, if any, are due by 04/26/2021 at 10 a.m.

WITNESSES

The parties shall submit updated deposition designations, counter-designations, and objections by 04/26/2021 at 10 a.m. The updated documents shall reflect the Court's PTC rulings. The parties shall provide the Court with deposition transcripts in notebooks, along with a master chart of objections and responses. The parties shall provide one copy of each transcript with the designated portions highlighted in party-specific colors.

JURY INSTRUCTIONS

Proposed Jury Instructions were distributed and discussed. The parties shall inform the Court of any objections no later than 04/26/2021 at 10 a.m.

VERDICT FORM

A proposed Verdict Form was distributed. The parties shall inform the Court of any objections no later than 04/26/2021 at 10 a.m.

MISCELLANEOUS

A second PTC is set for 05/03/2021 at 1 p.m.

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